

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
(EASTERN DIVISION)**

MARK A. STOLZENBURG, individually)
and on behalf of a class of similarly-situated)
individuals,)

Plaintiff)

v.)

BIEWER LUMBER, LLC, et. al.)

Defendants)

Civil Action No. 4:14-cv-1533

**PLAINTIFF MARK A. STOLZENBURG’S MOTION FOR FINAL APPROVAL
OF CLASS SETTLEMENT**

Pursuant to Federal Rule of Civil Procedure 23(e), Plaintiff Mark A. Stolzenburg, as representative of the settlement class moves for an order of this Court approving the proposed settlement as final. The motion is not opposed. No class member or other individual has objected.

1. The parties to this action reached a settlement. The settlement provides that Defendant Green Tree Composites, L.L.C. (“Green Tree”) will pay the total sum of \$470,000 to settle the matter. This is a non-reversionary payment. Pursuant to the settlement agreement between the parties, the settlement fund will be allocated as follows:

- a. \$266,500 will be divided among all class members on a pro rata basis;
- b. \$150,000 will be paid to class counsel;
- c. \$10,000 will be paid to class representative Mark A. Stolzenburg;
- d. \$3,500 will be paid to class counsel for documented expenses;

- e. \$40,000 will be paid to Dahl Administration for administration fees and costs.

2. In connection with the settlement, Plaintiff seeks approval of an award of \$150,000 in attorneys' fees representing 32% of the total settlement fund, \$3,500 in litigation expenses, and a \$10,000 class representative award for Plaintiff Mark A. Stolzenburg.

3. A total of 450 claim forms were submitted by class members. Each class member will receive an average payment of \$592.22.

4. The requested attorneys' fee of 32% of the settlement fund is consistent with amounts approved by this Court in other class action settlements. See *Dengen Gerzog*, No. 15-1103, Dkt. 47, at pp. 4-5 (E.D. Mo. Apr. 20, 2016 (White, J.) (awarding 33% of the minimum amount of the settlement fund); *Prater v. Medicredit, Inc.*, No. 14-0159, 2015 WL 8331602, at *4 (E.D. Mo. Dec. 7, 2015 (Webber, J.) (awarding a fee of 33% of the settlement fund); *Lee's v. Anthem Ins. Co.*, No. 13-1411, 2015 WL 3645208, at *4 (E.D. Mo. June 10, 2015) (Limbaugh, J.) (awarding a fee of 34% of the fund available to the class); *Heller v. HRB Tax Group, Inc.*, No. 11-1121, Dkt. 60 (E.D. Mo. Aug. 9, 2013) (Adelman, J.) (awarding attorneys' fees of 33.3% of the common fund); *Lindsey Transmission v. Office Depot, Inc.*, No. 12-0221, Dkt. 100 (E.D. Mo. June 23, 2014) (Jackson, J.) (awarding attorneys' fees totaling 33% of the settlement fund). Notably the Class Notice advised all class members that counsel would request this amount and no class member objected.

5. Counsel for Plaintiff has devoted substantial time and effort in its prosecution of this case on behalf of the Class. The settlement achieved is very favorable to the Class as each class member is expected to receive an average of \$592.22.

6. Plaintiff Mark A. Stolzenburg seeks a service award of \$10,000 for his service as class representative. Plaintiff Stolzenburg has dedicated significant time and effort to the prosecution of this action and such an award is consistent with awards approved in other class action settlements.

7. Plaintiff also submits his memorandum in support of the instant motion. Attached to the memorandum are an affidavit from the settlement administrator and a declaration from Class Counsel. The memorandum provides additional detail as to why the settlement should be approved as final.

WHEREFORE, Plaintiff Mark A. Stolzenburg prays for an order of this Court approving the settlement, whereby the Settlement Class Members shall receive their pro rata share of the settlement fund, award fees to Class Counsel of \$150,000 and expenses of \$3,500, approving payment of a service award to Plaintiff of \$10,000, and for such further and other relief as the Court deems just and proper.

Respectfully submitted,
THE SMITH LAW FIRM, LLC

/s/ Neil Smith
Neil Smith, #56789MO
231 S. Bemiston Ave., Suite 800
Clayton, MO 63105
Phone: (314) 725-4400
Cellular: (314) 974-3266
neil@smithlawfirm.com

*Attorney for Plaintiff and proposed
Class and Subclass*

CERTIFICATE OF SERVICE

The undersigned certifies that on this day, January 25, 2017, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record, including:

James Craney, Esq.
Craney Law Group LLC
411 St. Louis Street
Edwardsville, IL 62025
James.craney@craneylaw.com

Attorneys for Defendants

/s/ Neil Smith